IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 551 of 2005

Decided on : May 22, 2006

Smt. Soma Devi **…..Appellant.**

VERSUS

Gopal and others **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1] No

For the Appellant : Mr. G.R. Palsara, Adv.

For the Respondents : Mr. Vinod Gupta, Adv., vice Mr. C.B. Singh, Adv., for respondent No.1.

None for other respondents.

Surjit Singh, Judge (Oral)

Heard and gone through the record. Appellant-plaintiff and proforma-respondents filed a suit challenging Will, dated 3rd July, 1992, executed by Dumnu, who was the father of the present appellant and proforma respondents No.8 and 9 and husband of proforma-respondent No.7. It was alleged that the Will, dated 3rd July, 1992, set-up by respondent Gopal, the son of a pre-deceased son of Dumnu, was bogus and that its execution was shrouded by suspicious circumstances. Of course, respondent Gopal contested the suit and claimed that he being the grandson of Dumnu, the latter made the Will in his favour.

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes.***

2. The trial Court returned the finding that the Will is genuine and was validly executed. In appeal, the finding has been affirmed by the District Judge. Now, one of the four plaintiffs, namely Soma Devi, one of the daughters of Dumnu, has filed this appeal.

3. I have heard the learned counsel for the appellant and gone through the record. Evidence on record shows that the total area of holding of Dumnu was around 16 bighas. Out of this holding he sold about 8 bighas land to respondent-defendant Gopal on 1.7.1992 or say two days before the execution of the Will. It appears that Dumnu was a moneyed man. He deposited Rs.20,000/- in the Savings Bank Accounts of each of his three daughters and some amount of money in the account of his wife. He also gave each of the three daughters 3 biswas of land. That means he made suitable provision for his daughters and wife.

4. In any case, the evidence on records shows that the Will was executed by deceased Dumnu. The scribe and the witnesses were examined by the respondent-defendant. They stated with one voice that the Will was executed by Dumnu. There does not appear to be any discrepancy or contradiction, worth noticing, in their depositions. Respondent-defendant is the son of a predeceased son of the testator. The testator did not have any other son. The respondent-defendant is the only son of a predeceased son of the testator. Under these circumstances, the disposition made through the Will cannot be said to be unnatural.

5. In view of the above stated position, I find no merit in the appeal. No substantial question of law arises. There is concurrent

finding by the two Courts below that the Will is genuine and valid. Hence, the appeal is dismissed.

CMPs No.937 & 938 of 2005

Infructuous.

(Surjit Singh)
Judge.

May 22, 2006(sd)